	Application No.	Applicant(s)
Notice of Allowability	09/903,771 Examiner	MOECKEL ET AL. Art Unit
•		
	Kathleen M Kerr	1652
The MAILING DATE of this communication app All claims being allowable, PROSECUTION ON THE MERITS IS herewith (or previously mailed), a Notice of Allowance (PTOL-85) NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT R of the Office or upon petition by the applicant. See 37 CFR 1.313	(OR REMAINS) CLOSED in or other appropriate comminus (IGHTS). This application is	n this application. If not included unication will be mailed in due course. THIS
1. \square This communication is responsive to $9/20/04$.		
2. The allowed claim(s) is/are <u>3,13,17,19,37,38 and 52-54</u> .		
3. The drawings filed on are accepted by the Examine	er.	
 4. Acknowledgment is made of a claim for foreign priority unally all blooms. All blooms are considered as a claim for foreign priority unall all blooms. All blooms are considered as a claim for foreign priority unall blooms. 1. Certified copies of the priority documents have a copies of the certified copies of the priority documents have a claim for foreign priority documents have a copies of the certified copies of the priority documents have a copies of the certified copies of the priority documents have a copies of the certified copies of the certified copies are copies. * Certified copies not received: 	e been received. e been received in Applicatio	on No
Applicant has THREE MONTHS FROM THE "MAILING DATE" noted below. Failure to timely comply will result in ABANDONN THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.	of this communication to file IENT of this application.	a reply complying with the requirements
5. A SUBSTITUTE OATH OR DECLARATION must be subm INFORMAL PATENT APPLICATION (PTO-152) which give	nitted. Note the attached EXA es reason(s) why the oath or	AMINER'S AMENDMENT or NOTICE OF declaration is deficient.
6. CORRECTED DRAWINGS (as "replacement sheets") mus	st be submitted.	
(a) I including changes required by the Notice of Draftspers	son's Patent Drawing Review	v (PTO-948) attached
1) 🗌 hereto or 2) 🔲 to Paper No./Mail Date		
(b) ☐ including changes required by the attached Examiner's Paper No./Mail Date	s Amendment / Comment or	in the Office action of
Identifying indicia such as the application number (see 37 CFR 1 each sheet. Replacement sheet(s) should be labeled as such in t	.84(c)) should be written on the header according to 37 CF	ne drawings in the front (not the back) of R 1.121(d).
DEPOSIT OF and/or INFORMATION about the depo attached Examiner's comment regarding REQUIREMENT	sit of BIOLOGICAL MATE	ERIAL must be submitted. Note the
Attachment(s) 1. ☐ Notice of References Cited (PTO-892) 2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)		formal Patent Application (PTO-152)
 Information Disclosure Statements (PTO-1449 or PTO/SB/0 	Paper No./	ummary (PTO-413), Mail Date
Paper No./Mail Date		Amendment/Comment
4. Examiner's Comment Regarding Requirement for Deposit		Statement of Reasons for Allowance
of Biological Material	9.	Kathleen M Kerr Primary Examiner Art Unit: 1652

Application/Control Number: 09/903,771 Page 2

Art Unit: 1652

DETAILED ACTION

Application Status

1. In response to the previous Office action, a non-final rejection (mailed on June 18, 2004), Applicants filed a response and amendment received on September 20, 2004. Said amendment cancelled Claims 1, 4, 10-12, 14-16, 18, and 40-49, amended Claims 17, 19, and 37, and added two new claims. Since "new" claims 50-51 do not look like previously filed claims 50-51, the Examiner must assume that Claims 50-51 have also been cancelled and Claims 50-51 are new claims to be renumbered as Claims 52-53 for prosecution herein. Thus, Claims 3, 13, 17, 19, 37, 38, 52, and 53 are pending in the instant Office action and will be examined herein.

Priority

2. As previously noted, the instant application is granted the benefit of priority for the foreign application 10039043.9 filed in Germany on August 10, 2000; a translation of said document has been filed.

Withdrawn - Claim Objections

3. Previous objection to Claims 16, 17, 43, 47, and 51 for capitalizing "Coryneform" is withdrawn by virtue of Applicant's amendment.

Withdrawn - Claim Rejections - 35 U.S.C. § 112

4. Previous rejection of Claims 10-11 under 35 U.S.C. § 112, second paragraph, as being indefinite for the phrase "consisting of at least 30 consecutive nucleotides" (emphasis added) is withdrawn by virtue of Applicant's cancellation of said claims.

Application/Control Number: 09/903,771

Art Unit: 1652

5. Previous rejection of Claims 18-19 under 35 U.S.C. § 112, second paragraph, as being indefinite for the species *B lactofermentum* and *B. divaricatum*, which are synonyms of *C. glutamicum*, is withdrawn by virtue of Applicant's cancellation of these members of the Markush

Page 3

group.

6. Previous rejection of Claims 40-51 under 35 U.S.C. § 112, first paragraph, new matter, is withdrawn by virtue of Applicant's cancellation of said claims.

7. Previous rejection of Claim 10 under 35 U.S.C. § 112, first paragraph, written

description, is withdrawn by virtue of Applicant's cancellation of said claims.

8. Previous rejection of Claim 10 is rejected under 35 U.S.C. § 112, first paragraph, scope of enablement, is withdrawn by virtue of Applicant's cancellation of said claims.

9. Previous rejection of Claims 40-51 under 35 U.S.C. § 112, first paragraph, scope of enablement, is withdrawn by virtue of Applicant's cancellation of said claims.

Withdrawn - Claim Rejections - 35 U.S.C. § 102

- 10. Previous rejection of Claims 40-51 under 35 U.S.C. § 102(e) as being anticipated by USPAP 2002/0197605 (Nakagawa *et al.*) is withdrawn by virtue of Applicant's cancellation of said claims.
- 11. Previous rejection of Claims 40-51 under 35 U.S.C. § 102(a) as being anticipated by EP 1108790 (Nakagawa *et al.*) is withdrawn by virtue of Applicant's cancellation of said claims.

Application/Control Number: 09/903,771

Art Unit: 1652

12. Previous rejection of Claims 40-43 under 35 U.S.C. § 102(a) as being anticipated by WO 01/00842 (Pompejus *et al.*) is withdrawn by virtue of Applicant's cancellation of said claims.

EXAMINER'S AMENDMENT

13. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 C.F.R. § 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Daniel Pereira on November 22, 2004.

Amendments to the Claims

- 14. The claims have been amended as follows:
- a) Rewrite Claim 17 as follows:
- ---17. The host cell of Claim 54, which is a coryneform bacterium.---
- b) Rewrite Claim 19 as follows:
- ---19. The host cell of Claim 17, wherein said host cell is selected from the group consisting of Corynebacterium glutamicum, Corynebacterium acetoglutamicum, Corynebacterium acetoacidophilum, Corynebacterium melassecola, Corynebacterium thermoaminogenes, and Brevibacterium flavum.---

Art Unit: 1652

- c) Rewrite Claim 38 as follows:
- ---38. A method for making LuxR protein, comprising: culturing the host cell of Claim 54 for a time and under conditions suitable for expression of LuxR protein, and collecting the LuxR protein.---
- d) Add new Claim 54 as follows:
- ---54. A host cell comprising the isolated polynucleotide of claim 3.---

Conclusion

15. Claims 3, 13, 54, 17, 19, 37, 38, 52, and 53 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathleen M Kerr whose telephone number is (571) 272-0931. The examiner can normally be reached on Monday through Friday, from 9:00am to 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathupura Achutamurthy can be reached on (571) 272-0928. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kathleen M Kerr Primary Examiner Art Unit 1652

Sath/K